

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 03-460-A
)	
MICHAEL E. KING, JR.,)	
a/k/a "Mark Thompson")	
)	
Defendant.)	

STATEMENT OF FACTS

Were the United States to proceed to trial in this case, it would provide testimonial and documentary evidence to prove beyond a reasonable doubt that from approximately May 6, 2002 through March 20, 2003, defendant Michael E. King, Jr. (hereinafter "the defendant") did willfully infringe the copyrights of copyrighted works, to wit copyrighted professional wrestling video tapes, by the reproduction and distribution during a 180 day period of ten (10) or more copies of one (1) or more copyrighted works which had a retail value of \$2,500 or more, in violation of federal criminal copyright laws, Title 17 United States Code, Section 506(a)(2) and Title 18 United States Code, Section 2319(c)(1). Specifically, the testimonial and documentary evidence would establish, at a minimum, the following facts:

1. The defendant willfully engaged in conduct causing the unauthorized reproduction and distribution of copyrighted works via the United States Postal Service by using a video descrambler in his home and making the unauthorized copies publicly available to other individuals.

2. From May 6, 2002, to March 20, 2003, the defendant was involved in reproducing and distributing unauthorized video tape copies of copyrighted works owned by Ring of Honor, Inc.

(hereinafter "ROH") and produced by RF Video, Inc.

3. The defendant, during the relevant time, was operating his illegal business under the name of Mark Out Video. The defendant also used the alias Mark Thompson while unlawfully selling the unauthorized video tape copies of copyrighted works.

4. The defendant was not authorized or licensed by ROH or RF Video, Inc. to reproduce or distribute the copyrighted video tapes. Each master copy of a ROH video contains a warning against copyright infringement. The ROH copyrighted video tapes are protected against illegal copying with the Macrovision copy protection system. To defeat the Macrovision copy protection system, the defendant utilized a video descrambler, a device available for purchase over the Internet.

5. From December 30, 2002, to February 14, 2003, special agents of the Federal Bureau of Investigation, located in the Eastern District of Virginia, reviewed Internet websites that advertised and recommended the defendant's unauthorized videos for sale. The websites included the defendant's home page at: <http://www.geocities.com/markoutvideo/home3.html> and a bulletin board within Crazy Max Wrestling Forums. The defendant posted the prices for his ROH video tapes on Crazy Max Wrestling Forums as: Any 5 for \$30 or \$33, Any 8 for \$45 or \$50, Any 12 for \$65 or \$72, Any 15 for \$80 or \$88. The copyrighted and authorized ROH videos each sell for \$19.95.

6. An employee of ROH, Sydney Eick, contacted the defendant via the Internet at markoutvideo@aol.com. Under the guise of a ROH fan, Eick placed an order to purchase three (3) ROH video tapes from the defendant. The defendant claimed in the email correspondence with Eick that he "sell[s] dubbs for \$6 each." Eick mailed a \$20 check to Mark Out Video, Attn: Mark Thompson, 8846 Surveyors Place, Springfield, Virginia, 22152. Eick received three (3)

RCA Standard Grade recording VHS video tapes. The video tapes were marked with a post-it note. Handwritten on the notes was "ROH 2-23-02," "ROH 3-30-02," and "ROH 4-27-02." The video tapes contained copies of the indicated events, but the video tapes were not produced or sold by RF Video, Inc. The video tapes did not include the copyright protection system used by RF Video, Inc. to protect its video tapes from being copied without authorization.

7. On or about January 20, 2003, special agents of the Federal Bureau of Investigation obtained and reviewed PayPal account records associated with the defendant and the defendant's email address of markoutvideo@aol.com. PayPal is an Internet-based payment service to which the defendant subscribed so that he could receive credit card payments from customers over the internet. The account records indicate the following: Name: Michael King and Michael E. King, Phone: w: (703) 866-4810, h: (703) 913-0919, email: MrPison@aol.com, markoutvideo@aol.com, uvideos@aol.com, uproductions@yahoo.com, markoutvideo@yahoo.com, trentacidmark@aol.com. Address: 8846 Surveyors Place, Springfield, Virginia 22152-2224, Business Name: King Promotions. In the note section of the PayPal records regarding individual transactions, 126 references are made to purchases of Ring of Honor and RF video tapes from Mark Out Video. The special agents identified \$6,980 in the PayPal records for the sale of unauthorized ROH video tapes by the defendant.

8. On or about January 23, 2003, special agents of the Federal Bureau of Investigation reviewed the defendant's bank account records from First Union/Wachovia Bank. Several checks and money orders are made payable to the order of Mike King, Michael King, or Mark Thompson, and are marked in the memo section with "tapes" or "wrestling tapes."

9. On March 20, 2003, special agents of the Federal Bureau of Investigation searched

the defendant's residence in Springfield, Virginia. The special agents seized the following items from the defendant's residence: two (2) video descramblers; one (1) IBM Aptiva computer; one (1) IBM Thinkpad Laptop computer; seventeen (17) video cassette recorders; and 915 unauthorized video tape copies of copyrighted works. In addition to Ring of Honor video tapes, the seized tapes included copyrighted works of the World Wrestling Federation (WWF) and World Championship Wrestling (WCW). Records of the defendant's PayPal account show that the defendant sold copies of these copyrighted works using the same methods and the same manner in which he sold unauthorized copies of Ring of Honor copyrighted works. The defendant has acknowledged that he was not authorized to copy and sell any of these copyrighted works. Because of the defendant's conduct, the WWF and the WCW suffered losses in the amounts set forth in the Plea Agreement.

10. The actions of the defendant as recounted above were in all respects knowing and deliberate, and were not committed by mistake, accident, or other innocent reason.

11. The information contained in this statement of facts is not all of the information known to the defendant or the government but is set forth for the sole purpose of providing a factual basis for the plea of guilty to the information filed by the government in this case.

Respectfully submitted,

Paul J. McNulty
United States Attorney

By: _____
Michael J. Elston
Assistant United States Attorney

Defendant's Stipulation and Signature

After consulting with my attorney, I hereby stipulate that the above statement of facts is true and accurate. I further stipulate that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

Date: _____
Michael E. King, Jr.
Defendant

Defense Counsel's Signature

I am Michael E. King, Jr.'s attorney. I have carefully reviewed the above statement of facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Date: _____
Michael Nachmanoff
Counsel to the Defendant